IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:08cv322-01-MU

STUART WAYNE TOMPKINS,)
Plaintiff,)
v.	ORDER
DEP'T OF CORRECTIONS, et al.,)
Defendants.))

THIS MATTER comes before the Court upon Plaintiff's Motion to Set Aside Judgment (Doc. No. 137), filed March 17, 2010.

Plaintiff has filed a motion requesting that this Court set aside its April 14, 2009, Order dismissing his Complaint. The basis for his motion is that he did not receive a copy of the April 14, 2009, Order until June 21, 2009. This fact does not provide a reason for this Court to set aside its Judgment pursuant to Rule 60(b). Moreover, the Court notes that his Notice of Appeal has been construed as a Motion for Leave to Reopen his Appeal Period and this Court has determined that Plaintiff satisfied the requirements set forth in Rule 4(a)(6) of the Federal Rules of Appellate Procedure.

THEREFORE, IT IS HEREBY ORDERED that Plaintiff's Motion to Set Aside

Judgment (Doc. No. 137) is DENIED.

Signed: March 22, 2010

Graham C. Mullen United States District Judge